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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/878,950	06/11/2001	Henry L. Sanders	MS1-771US	3587
22801	7590	06/13/2005	EXAMINER	
LEE & HAYES PLLC 421 W RIVERSIDE AVENUE SUITE 500 SPOKANE, WA 99201			WU, QING YUAN	
			ART UNIT	PAPER NUMBER
			2194	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/878,950

Applicant(s)

SANDERS ET AL.

Examiner

Qing-Yuan Wu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 and 13-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 13-33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/28/05</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1-11 and 13-33 are pending in the application.

#### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. The following terms lacks antecedent basis:
  - i. The client device generated request- claim 6, lines 2-5.

#### *Claim Rejections - 35 USC § 101*

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1-11 are directed to method steps which can be practiced mentally in conjunction with pen and paper, therefore they are directed to non-statutory subject matter. Specifically, as claimed, it is uncertain what performs each of the claimed method steps. **The claimed steps do**

**not define a machine or computer implemented process [see MPEP 2106].** (The examiner suggests applicant to change “method” to “computer implemented method” in the preamble to overcome the outstanding 35 U.S.C. 101 rejection).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-11 and 13-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (hereafter AAPA), in view of Benitez et al (hereafter Benitez) (U.S. PG Pub 20020161908A1).

8. Benitez et al was cited in the last office action.

9. As to claim 13, AAPA teaches the invention substantially as claimed including causing a user-mode process in a server device to compare information associated with a request to a file to identify a most applicable user-mode process for handling the client device generated request within the server device [specification, pg. 2, line 16 to pg. 3, line 8], and causing the user-mode process to provide the client device generated request to the identified most applicable user-mode process [specification, pg. 3, lines 9-12]. AAPA does not specifically teach performing the

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above function of comparing and providing within a kernel-mode environment, nor comparing a hierarchical identifier associated with the request with a configuration file. However, Benitez disclosed that requests made to an application streaming file system comprising the comparison of hierarchical identifier to a configuration file in a kernel-mode environment [Benitez, pg. 10, right col. lines 50-55; pg. 8, left col. lines 12-18; 617, 604, 603, 612, Fig. 6A].

10. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have combine the teaching of AAPA and Benitez because Benitez disclosed advantage and disadvantage of a powerful/efficient pure kernel-mode implementation of handling requests, and an alternative user-mode implementation that is easier to develop and debug. A person with ordinary skill in the art would have been motivated to implement the powerful/efficient kernel-mode approach over the less efficient user-mode approach to address the issue of AAPA [Benitez, pg. 10, right col., line 58 to pg. 11 left col., line 7; 804, Fig. 8; 902, 905, Fig. 9].

11. As to claims 14-16, these claims are rejected as claim 1 above, in addition AAPA and Benitez do not specifically teach a user-mode administrative process, providing a configuration store suitable for access by the user-mode administrative process. However, Benitez disclosed a spoof database being generated by a kernel-mode process (i.e. a client file spoofer), where access/request to a matching entry in the spoof database is directed by the client file spoofer to a remote system to handle the request [Benitez, pg. 8, lines 12-20]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized that

Benitez's system can be implemented in an alternative user-mode with the advantage of easier development and debugging as being considered in Benitez's organization of the streaming client software [Benitez, pg. 10, right col., line 58 to pg. 11 left col. line 7].

12. As to claim 17, AAPA as modified does not specifically teach providing a non-shared interface between the kernel-mode process and the identified most applicable user-mode process. However, AAPA disclosed sharing of a common communication port between web server process and one or more worker process [specification, pg. 3, lines 16-17]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized that a non-shared interface would solved the problem caused by a shared interface.

13. As to claim 18, AAPA as modified does not specifically teach selectively queuing the client device generated request prior to providing the request to the identified most applicable user-mode process. However, Benitez disclosed a caching system that will reduce the number of requests when there is a hit in the cache [1309, Fig. 13; Benitez, pg. 11, left col., lines 47-50]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized that an overflow of requests can cause the system to be unstable or a reduction in its robustness, and queuing requests until it is ready to be handled provides an alternative to reducing number of requests and lowering the workload to a user-mode process.

14. As to claim 19, AAPA as modified does not specifically teach wherein the hierarchical identifier includes a uniform resource locator (URL). However, Benitez disclosed a hierarchical

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identifier as a pathname [Benitez, pg. 8, left col., lines 3-5]. It would have been obvious to one of an ordinary skill in the art at the time the invention was made, to have recognized that a URL and a path name in accordance with the Universal Naming Convention (UNC) both define a path to a resource.

15. As to claims 20-21, AAPA teaches the invention substantially as claimed including wherein the most applicable user-mode process includes a user-mode web server process and wherein the most applicable user-mode process includes at least one user-mode worker process [specification, pg. 2, lines 22-23].

16. As to claims 22-23, AAPA as modified teaches the invention substantially as claimed including receiving the client device generated request using a kernel-mode communication protocol process, wherein the kernel-mode communication protocol process includes a kernel-mode TCP/IP process [specification, pg. 2, lines 20-22; 202, Fig. 2]; and providing the client device generated request to the kernel-mode process [Benitez, pg. 10, right col., lines 50-52].

17. As to claim 24, AAPA teaches the invention substantially as claimed including causing the identified most applicable user-mode process to handle the client device generated request [specification, pg. 3, lines 9-10].

18. As to claim 1, this claim is rejected for the same reason as claim 13 above. In addition, AAPA as modified teaches receiving a request from a client device, the request comprising a hierarchical identifier [specification, pg. 2, lines 7-15].

19. As to claims 2-11, these claims are rejected for the same reason as claims 13-24 above.

20. As to claims 25-33, these claims are rejected for the same reason as claims 13-24 above.

*Response to Arguments*

21. Applicant's arguments filed 2/28/05 have been fully considered but they are not persuasive.

22. In the remarks, Applicant argued in substance that:

a. Benitez does not describe a system in which a hierarchical identifier associated with a request is used to determine an appropriate user-mode process for handling the request.

b. Benitez and AAPA are directed to different types of systems, and there is no suggestion in either to combine the two.

23. Examiner respectfully traversed Applicant's remarks:



24. As to point (a), Applicants argue the patentability of various claims, individually addressing the reference used to reject the claims. Applicant can not show nonobviousness by attacking the references individually where, as here, the rejection is based on a combination of references. See In re Keller, 208 USPQ 871 (CCPA 1981). In addition, AAPA teaches substantially using information associated with a request to identify a most applicable user-mode process for handling the request within the server device (i.e. extension provided at the end of the URL [pg. 2, line 23-pg. 3, line 8], and the Benitez patent was brought in solely for the purpose of the comparison of a hierarchical identifier to a configuration file in a kernel-mode environment [Benitez, pg. 10, right col. lines 50-55; pg. 8, left col. lines 12-18; 617, 604, 603, 612, Fig. 6A]. Therefore, the teaching of AAPA and Benitez in combination teaches the limitations as recited.

25. As to point (b), The Benitez patent does not have to be in analogous art as the claimed invention or AAPA because these are 35 U.S.C 103 rejections based on the combination of AAPA and Benitez's patent, not Benitez's patent alone. See paragraph 10 above.

26. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on

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the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qing-Yuan Wu whose telephone number is (571) 272-3776. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**MENG-AI T. AN**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2100**

Qing-Yuan Wu

Examiner

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